IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14/09/2004

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

WRIT PETITION NO.5232 OF 2001

Ayya Nadar Janaki Ammal
Collect (Autonomous)
Sivakasi, rep. by its
Secretary-cum-Correspondent,
Mr.V.Kodeeswaran. .. Petitioner

-Vs-

1. The State of Tamil Nadu
rep. by its Secretary to
Government, Education
Department, Chennai-9.

2. The Director of Collegiate
Education, E.V.K.Sampath
Maligai, College Road,
Chennai-6.

3. K.Sheriff,
Junior Mechanic,
Ayya Nadar Janaki Ammal
Collect (Autonomous)
Sivakasi, .. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari as stated therein.

For petitioner : Mr.S.Jayaraman

For respondents 1&2 : Ms.V.Velumani,AGP (Writs)

For 3rd respondent : M/s.K.Suguna.

:O R D E R
This Writ Petition has been filed by the petitioner praying to issue a writ of Certiorari to call for the records from the 2nd respondent in his order dated 11.8.1997 passed in Mu.Mu.No.67597/G2/95, which was confirmed by the first respondent by his order dated 22.9.2000 in letter No.7019/D1/99-3 and to quash the same.

2. The case of the petitioner is that it is an Autonomous College, Governed by the Tamilnadu Private Colleges (Regulations) Act 1976; that the third respondent is working as Junior Mechanic in the said College; that one Mr.C.Kandasamy working as Laboratory Assistant, attached to the Under Graduate Department of Physics has made a complaint to the petitioner alleging that on 19.9.1994 at 4.15 p.m. the third respondent picked up quarrel with him and pulled his shirt and beat him severally and thereby put him to shame and ridicule; that after conducting preliminary enquiry, the management decided to initiate disciplinary proceedings against the third respondent and accordingly on 4.6.1994, a charge memo. was issued calling upon the third respondent to give his explanation within 5 days; that he gave his explanation dated 18.6.1994 denying the charges levelled against him; that since the explanation offered by him was not satisfactory, the management by letter dated 21.9.1994 called upon him to appear before the College Committee at 4.00 p.m. on 5.10.1994 for enquiry; that the said enquiry was postponed to 12.10.1994 and then to 27.10.1994; that on 27 .10.1994 the College Managing Committee came to the conclusion that the third respondent has committed the misconduct of man-handling and assaulting Mr.C.Kandasamy and decided to punish him with suspension from service for a period of one month giving an opportunity to the third respondent to file his representation if any within 15 days; that on 20.12.1994 he gave his representation stating that the conclusion of the College Managing Committee was wrong and partisan; that on 9.10.1995, the College Managing Committee after considering the entire records of the disciplinary proceeding, has passed its final order suspending the third respondent from service without salary for a period of one month i.e. from 27.10.1995 to 26.11.1995 and the same was duly communicated to the third respondent by letter dated 25.10.1995.

3. The further case of the petitioner is that against the said order of suspension, the third respondent preferred appeal before the second respondent u/s 20 of the Tamil Nadu Private Colleges (Regulation) Act 1976; that the second respondent after considering the materials placed before him has arrived at the conclusion that the disciplinary proceeding initiated by the petitioner against the third respondent was correct, but the punishment awarded against him was not proper and therefore, modified it into an order of withholding of increment for a period of one year without cumulative effect by an order dated 11 .8.1997. Aggrieved by the said order the petitioner preferred appeal before the first respondent u/s 37 of the Tamilnadu Private Colleges (Regulation) Act 1976; that the first respondent by the order dated 22.9.2000, has rejected the appeal preferred by the petitioner thereby confirming the order passed by the second respondent. Aggrieved by the orders passed by both the first and second respondents, the petitioner has come forward to file this writ petition.

4. Heard the learned counsel for the petitioner, the learned Additional Government Pleader (Writs) and the learned counsel for the third respondent as well and the materials placed on record have also been perused.

5. The main contention of the learned counsel for the petitioner is that the behaviour of the third respondent in assaulting the colleague even inside the College premises is serious in nature and it will spoil the

reputation of the College and as such the punishment imposed by the College Managing Committee against the third respondent is reasonable considering the activities of the third respondent and he would pray for the relief extracted supra.

6. On the contrary, the learned counsel for the third respondent would submit that as contemplated in the provisions of the Private Colleges (Regulation) Act, minor punishment like stoppage of increment alone can be inflicted and major punishment like suspension cannot be inflicted against the employees considering the nature of misconduct; that since the misconduct committed by the third respondent is not a major one, the order of the second respondent in modifying the punishment into stoppage of increment for a period of one year without cumulative effect is justifiable and as such it has been confirmed by the first respondent and hence he would pray for dismissal of the above writ petition.

7. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for both this Court is able to assess that for the alleged commission of misconduct of man-handling and assault by the third respondent, the College Managing Committee after considering the entire records of the disciplinary proceeding initiated by the petitioner has passed its final order dated 9.10.1995, suspending the third respondent from service without salary for a period of one month i.e. from 27.10.1995 to 26.11.1995 and on the appeal preferred by the third respondent, the second respondent by an order dated 11.8.1997, has modified the said punishment into an order of withholding of increment for a period of one year without cumulative effect. Aggrieved by the said order the petitioner preferred appeal before the first respondent u/s 37 of the

Tamilnadu Private Colleges (Regulation) Act 1976 and the first respondent by the order dated 22.9.2000, has rejected the appeal preferred by the petitioner thereby confirming the order passed by the second respondent.

8. In the above fact situation of the case, this Court is the view that for the misconduct of man-handling and assault committed by the third respondent the disciplinary proceeding as initiated against him by the petitioner management is justifiable, but the punishment awarded by the petitioner is not reasonable and justifiable and as such the second respondent has rightly arrived at the conclusion to modify the punishment into an order of withholding of increment for a period of one year without cumulative effect. Considering the fact that since it is an isolated event, the same will meet the ends of justice and hence, this court does not find any warranting circumstances to interfere with the order passed by the second respondent, which was confirmed by the first respondent. The above writ petition does not merit acceptance and it is only liable to be dismissed and hence the following order:

In result,
(i) for the forgoing reasons assigned this writ petition does not merit acceptance and is dismissed as such;

(ii) the order dated 11.8.1997 passed in Mu.Mu.No.67597/G2/95, by the second respondent, which was confirmed by the first respondent by his order dated 22.9.2000 in letter No.7019/D1/99-3 is hereby confirmed;

(iii) however, in the circumstances of the case, there will be no order as to costs;

Index:Yes
Internet:Yes
gr.
To
1. The State of Tamil Nadu
rep. by its Secretary to
Government, Education
Department, Chennai-9.

2. The Director of Collegiate
Education, E.V.K.Sampath
Maligai, College Road,
Chennai-6.

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